

APPENDIX 27

Penn State Defendants' Documents in Support of
Motion for Summary Judgment/Statement of Facts

APPENDIX 27

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AUSTIN SCOTT, : NO. 4:09-CV-1989
Plaintiff :
VS. : Judge James McClure
: Complaint filed:
: 10/13/09
LANCE MARSHALL, MICHAEL :
MADIERA, OFFICER MATTHEW :
COVER, OFFICER RYAN RODGERS :
OFFICER DUSTIN MILLER, :
DETECTIVE STEPHANIE L. BROOKS :
DETECTIVE CHRISTINE D. VILE, :
ASSISTANT CHIEF THOMAS :
SOWERBY, CHIEF STEPHEN :
SHELOW, JOHN/JANE DOES 1-X, :
DESIREE MINDER, CENTRE COUNTY :
and THE PENNSYLVANIA STATE :
UNIVERSITY, :
Defendants :

DEPOSITION OF: AUSTIN SCOTT
TAKEN BY: DEFENDANT
PENNSYLVANIA STATE UNIVERSITY
BEFORE: MAUREEN L. PRITCHARD
NOTARY PUBLIC
DATE: DECEMBER 21, 2010, 9:36 A.M.
PLACE: McQUAIDE, BLASKO LAW FIRM
901 UNIVERSITY DRIVE
STATE COLLEGE, PA 16801

COPY

1 APPEARANCES:

2 THE KAROLY LAW FIRM, LLC
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12 FOR - DEFENDANT
13 MINDER

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17 State College, PA 16801

18 FOR - DEFENDANT
19 THE PENNSYLVANIA STATE UNIVERSITY

20 ALSO PRESENT:

21 STEVE GRANOFF
22 TOM SOWERBY
23
24
25

I N D E XBY DEFENDANTEXAMINATION

AUSTIN SCOTT

By Mr. Horne

4, 175

By Mr. Ninosky

128, 180

By Mr. Lichtman

181, --

E X H I B I T S

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EXHIBITSPRODUCED

No. 31 - Body Map Documentation

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STIPULATION

It is hereby stipulated by and between counsel for the respective parties that reading, signing, sealing, certification, and filing are waived; and that all objections except as to the form of the question be reserved until the time of trial.

AUSTIN SCOTT, called as a witness, being sworn/affirmed, testified as follows:

EXAMINATION

BY MR. HORNE:

Q Would you state your full name, please?

A Austin Timothy Scott.

Q How old are you, Mr. Scott?

A Twenty-five.

Q What's your date of birth?

A 3/13/85, 1985.

Q Mr. Scott, do you agree that you had sexual intercourse with Desiree Minder in the early morning hours of October 5, 2007?

A Yes.

Q When did you personally meet up with her

1 that morning?

2 A I don't recall the exact day, but I know
3 it was after midnight. I don't know the time, but
4 I know it was after midnight.

5 Q At any time after you met up with Desiree
6 after midnight on the morning of October 5 and the
7 time that you had sexual intercourse with her, did
8 she tell you that she wanted to have sex with you?

9 A No.

10 Q At any time before October 5, 2007, had
11 Desiree Minder ever told you that she wanted to
12 have sex with you?

13 A No.

14 Q Had you ever had sexual relations with
15 Desiree Minder before October 5, 2007?

16 A No.

17 Q That includes oral sex. Had you ever had
18 oral sex with her?

19 A No.

20 Q Had you ever kissed her?

21 A No.

22 Q Had you ever been alone with Desiree
23 Minder before you and she were at your apartment on
24 the early morning hours of October 5, 2007?

25 A We had been in the room with other

1 people. We had been together as a group alone.

2 Q So you had been with her prior to October
3 5, 2007, but always in the presence of others?

4 A Yeah. We had went to lunch.

5 Q How long was it after you and Desiree
6 arrived back at your apartment that you had sexual
7 intercourse with her?

8 A Probably around an hour and a half, an
9 hour.

10 Q

11

12

13 A

14 Q

15 A

16 Q

17

18

19 A

20 Q

21

22 A

23 Q

24

25 A

REDACTED

REDACTED

REDACTED

1 A Yes.

2 Q Any other occasions before October 5,
3 2007, when you had any interaction with Mr.
4 Rodgers?

5 A Before, no.

6 Q Mr. Sowerby is here today. Do you recall
7 meeting Mr. Sowerby on October 5, 2007?

8 A Yes.

9 Q Had you had any interactions with
10 Mr. Sowerby before October 5, 2007?

11 A Not that I can recall. Possibly.

12 Q When you say possibly, why do you say
13 that?

14 A Because I do remember explaining my
15 reason for being there to someone, but I do not
16 remember -- I can't put a face with it. But I do
17 remember -- it might have only been Mr. Rodgers,
18 actually.

19 Q Other than the possibility that
20 Mr. Sowerby may or may not have been there in that
21 incident with Mr. Rodgers during your freshman
22 year, before October 5, 2007, had you had any other
23 dealings with Mr. Sowerby?

24 A Not that I can remember.

25 Q We'll come back in greater detail to

1 October 5, 2007, but to your recollection, how were
2 you treated by Mr. Sowerby on October 5, 2007, when
3 you had any interaction with him?

4 A I don't remember.

5 Q You don't remember?

6 A I just said I didn't remember if it was
7 him or Mr. Rodgers.

8 Q No. Forget that one. Let's go to
9 October 5, 2007, the day that Desiree accused you
10 or raised the issue of whether you may have
11 assaulted her.

12 You had some interactions with
13 Mr. Sowerby that day, correct?

14 A Yes.

15 Q How were you treated by Mr. Sowerby
16 during your interactions with him on October 5,
17 2007?

18 A I was treated like -- I was treated fine,
19 I guess.

20 Q Steve Shelow; do you know Mr. Shelow?

21 A I'm sorry, can you go back? What do you
22 mean by the question, how was I treated?

23 Q What I meant, Mr. Sowerby on October 5,
24 2007, was he rude to you, did he bully you, did he
25 treat you disrespectfully?

1 A No.

2 Q Anything like that?

3 A No.

4 Q Steve Shelow; do you know Mr. Shelow?

5 A The name doesn't -- like I said before,
6 I'm a little bit better with faces. Steve Shelow?

7 Q Shelow.

8 A That does sound familiar, yeah. Shilow I
9 think is how I pronounce it, Shilow.

10 Q Where do you currently live, Mr. Scott?

11 A I am currently residing -- I don't really
12 have a place that I stay at very long. I'm usually
13 working -- at this current moment, I'm usually
14 working on the road in West Virginia. When I'm
15 back in Allentown I stay at John Jaendl's or my
16 aunt's or my uncle's in Scranton, Pennsylvania.

17 Q Let's go back. You graduated from
18 Parkland High School in 2003; is that correct?

19 A Uh-huh.

20 MR. NINOSKY: Say yes, please.

21 A Yes.

22 BY MR. HORNE:

23 Q Did you receive a degree from Penn State?

24 A Yes.

25 Q When did you get your degree from Penn

1 State?

2 A Spring 2008.

3 Q What was your major?

4 A Recreation parks and tourism management.

5 Q Do you have any formal education beyond
6 the degree you received from Penn State in 2008?

7 A No.

8 Q Have you taken any other college level
9 classes since you graduated from Penn State in
10 2008?

11 A No.

12 Q What's your mother's name?

13 A JoAnn.

14 Q Is your father living?

15 A My biological father, no.

16 Q Do you have a stepfather?

17 A Yes.

18 Q What's your stepfather's name?

19 A Donnahue.

20 Q Does your mother work outside the home?

21 A Yes.

22 Q Where does she work?

23 A I don't know.

24 Q How about your stepfather?

25 A I believe he works for New York Power

1 how you've been feeling since you left Penn State?

2 A Just words. You said have I
3 communicated. Just words. Nothing -- no text.

4 Q By the way, when you were arrested, were
5 you ever actually committed to jail, say,
6 overnight, held for any period of time until bail
7 could be posted? Anything like that?

8 A No.

9 Q Were arrangements made in advance for you
10 to turn yourself in and go through the process, the
11 booking and arrest process?

12 A Yes.

13 Q And then you were immediately released?

14 A Yes.

15 Q Have you incurred any medical expenses
16 for treatment related to anything you believe is
17 related to what you claim my client did since back
18 in 2008? You said you didn't have health
19 insurance. Have you incurred any other medical
20 expenses for medical treatment, counseling,
21 anything like that?

22 MR. LICHTMAN: Object to the form, but
23 you can answer.

24 A I had -- actually broke my toe.
25 Actually, I broke my toe. I wore a boot a couple

1 COUNTY OF CLINTON :
2 : SS

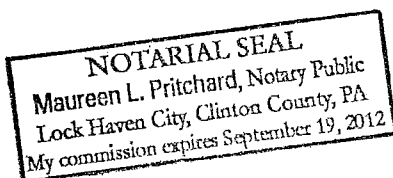
3 COMMONWEALTH OF PENNSYLVANIA :

4 I, Maureen L. Pritchard, Notary Public,
5 authorized to administer oaths within and for the
6 Commonwealth of Pennsylvania and take depositions
7 in the trial of causes, do hereby certify that the
8 foregoing is the testimony of AUSTIN SCOTT.

9 I further certify that before the taking of
10 said deposition, the witness was duly sworn; that
11 the questions and answers were taken down
12 stenographically by the said MAUREEN L. PRITCHARD,
13 Notary Public, approved and agreed to, and
14 afterwards reduced to typewriting under the
15 direction of the said Reporter.

16 I further certify that the proceedings and
17 evidence are contained fully and accurately in the
18 notes taken by me on the within deposition, and
19 that this copy is a correct transcript of the same.

20 In testimony whereof, I have hereunto
21 subscribed my hand this 5th day of January, 2011.



25
26

Maureen L. Pritchard
Notary Public

My Commission expires
September 19, 2012